

E-filed: 1/9/08

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

THAO NGOC NGUYEN

Plaintiff,

v.

CITY OF SAN JOSE and COUNTY OF  
SANTA CLARA,

Defendants.

No. CV-08-00002 RMW

ORDER DENYING APPLICATION FOR  
TEMPORARY RESTRAINING ORDERS

**[Re Docket No. 3]**

Thao Ngoc Nguyen requests the court to order the United States Attorney's Office to come to his house to protect him and to forensically examine his body, particularly his backbone and pelvis. Docket No. 3, at 5. Presumably, Mr. Nguyen requests the examination to attempt to detect the small electronic devices allegedly implanted in his body. Mr. Nguyen generally states that he has been the victim of a crime (the implanting of devices in his body) and that his life is threatened.

Rule 65(b) governs the issuance of temporary restraining orders. The rule requires a plaintiff to state "specific facts [that] clearly show that immediate and irreparable injury, loss, or damage will result to the movant before the adverse party can be heard in opposition." Fed. R. Civ. P. 65(b)(1). The rule also requires the plaintiff to certify his efforts to notify the opposing party and any reasons why notice should not be required. Fed. R. Civ. P. 65(b)(2).

Mr. Nguyen's request for a temporary protective order fails for both of these reasons. First,

1 Mr. Nguyen's application does not state specific facts demonstrating the need for a restraining order.  
2 Second, Mr. Nguyen states only that because he has requested a temporary protective order, he need  
3 not serve the defendants. That is not the law. The court can only issue a temporary restraining order  
4 without notice to the party that the order will enjoin where the plaintiff demonstrates a need for  
5 proceeding *ex parte*. Mr. Nguyen has not shown why the city of San Jose and county of Santa Clara  
6 should not be heard regarding his request.

7 Mr. Nguyen's application also appears defective because he requests injunctive relief from  
8 the United States Attorney, but he has sued the city of San Jose and the county of Santa Clara, not  
9 the United States Attorney.

10 Finally, Mr. Nguyen has alleged that this court has jurisdiction because of the  
11 "unconstitutionality of federal statutes." Mr. Nguyen does not allege which statutes he claims are  
12 unconstitutional. Without subject matter jurisdiction over the case, the court cannot issue any  
13 orders, let alone order the United States Attorney to protect Mr. Nguyen and examine him for  
14 implanted devices.

15 Accordingly, Mr. Nguyen's request for temporary protective orders is denied.  
16

17  
18 DATED: 1/8/08



RONALD M. WHYTE  
United States District Judge

1 **Notice of this document has been mailed to:**

2 **Plaintiff:**

3 Thao Ngoc Nguyen  
4 2150 Monterey Road  
5 #43  
6 San Jose, CA 95112

7 **Counsel for Defendant(s):**

8 No appearance.

9 Counsel are responsible for distributing copies of this document to co-counsel that have not  
10 registered for e-filing under the court's CM/ECF program.

11 **Dated:** 1/9/08

12 TSF  
13 **Chambers of Judge Whyte**